



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY COUNSEL

File #: 21-599

Board Meeting Date: 7/20/2021

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John C. Beiers, County Counsel

Subject: Amendment to Agreement with Athene Law LLP to provide outside legal services for Medi-Cal cost report appeals.

RECOMMENDATION:

Adopt a resolution authorizing an amendment to the agreement with Athene Law LLP, increasing the amount payable by \$100,000 to an amount not to exceed \$350,000 and extending the term of the agreement to June 30, 2023.

BACKGROUND:

In 2018, the County Counsel's Office entered into an agreement with Athene Law LLP (Athene) to provide legal services in support of the County Health System. Athene currently provides specialized legal services related to appeals of multiple years of Medi-Cal cost reports for the San Mateo Medical Center (SMMC) and the County's operation of skilled nursing facility beds on its hospital license. The original agreement (Agreement) was for the term July 1, 2018, through June 30, 2021, and initially authorized up to \$100,000 in expenditures for these legal services. Subsequent amendments have increased the amount payable to \$250,000.

DISCUSSION:

In recent years SMMC has seen a substantial reduction in the Medi-Cal reimbursement rate for its skilled nursing beds located at SMMC and at Burlingame Skilled Nursing (formerly Burlingame Long Term Care), as a result of Department of Health Care Services (DHCS) audits. Since 2018, Athene has supported SMMC through various stages of appeal of the audits for FY 2014, FY 2015, FY 2016, and FY 2017. As the matters continue to be litigated and specialized issues in Medi-Cal cost reporting continue to arise, this office seeks to further amend the agreement to increase the amount payable by an additional \$100,000, to a total amount not to exceed \$350,000. Given the complex nature of the issues referred to Athene and the firm's familiarity with both AB85 health realignment and the County Health System, that firm is uniquely able to efficiently provide the services described in the agreement.

The resolution contains the County's standard provision allowing amendments of the County's fiscal obligation by a maximum of \$25,000 (in aggregate).

FISCAL IMPACT:

The value of the amendment is up to \$100,000. Funds are included in the Health System Fiscal Year 2021-22 budget.